

NOTICE OF INTENT

**Department of Public Safety
Office of the Secretary****Reporting Requirements for Category 3 or Higher Hurricane
(LAC 33:V.11101, 11103, and 11105)**

Editor's Note: This Notice of Intent is being republished to correct an error upon submission. The original proposal can be viewed on pages 2478-2480 of the December 20, 2006 edition of the *Louisiana Register*.

Under the authority of R.S. 32:1504, and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt regulations for reporting requirements of hazardous materials for Category 3 or higher hurricane in LAC 33:V.Subpart 2, 11101, 11103, and 11105 (Log #DPS001).

This proposed rule provides a process for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane. Hurricanes Katrina and Rita illustrated the need to be able to accurately account for all hazardous material in this state especially in times of emergency. The state must be aware of the exact nature, quantities, and location of all hazardous materials in this state prior to any potential release under these circumstances. This rule is being promulgated by the Department of Public Safety in collaboration with the Department of Environmental Quality. The basis and rationale for this rule are to protect public health and the environment during times of emergency. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on February 27, 2007, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed regulation. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Parking in the Galvez Garage is free with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by DPS001. Such comments must be received no later than March 6, 2007, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to Fax (225)-219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the Department of Environmental Quality, Public Records Center, at (225) 219-3168. Check or money order is required in advance for each copy of DPS001. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Jill P. Boudreaux
Acting Undersecretary

Title 33
ENVIRONMENTAL QUALITY

Part V. Hazardous Waste and Hazardous Materials

Subpart 2. Department of Public Safety and Corrections—Hazardous Materials

Chapter 111. Reporting Requirements for Category 3 or Higher Hurricane

§11101. Purpose

A. The purpose of this Chapter is to establish procedures for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:**.

§11103. Applicability

A. This Chapter applies to all persons who are engaged in the transportation of hazardous materials by railcars, vessels, or barges, or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:**.

§11105. Requirements for Reporting

A. Notification shall be given to the DPS, via electronic submittal, to the 24-hour Louisiana Emergency Hazardous Materials Hotline email address at emergency@la.gov within 12 hours of a mandatory evacuation order issued by the proper parish authorities.

B. Definitions

Hazardous Materials—those materials listed on the EHS list, 40 CFR Part 355, Appendix A.

Temporary Storage—the containment of hazardous materials in a container that is portable. This provision does not cover those hazardous materials that are stored in pipelines or any other storage vessel permanently attached to the ground.

C. Mechanism and Responsibilities

1. Within 12 hours of an order of evacuation issued by local parish authorities, persons subject to the provisions of this Chapter shall report the following:

a. the exact nature of, and the type, location, and relative fullness of the container (i.e., full, half-full, or empty) of all hazardous materials that are located within a parish subject to the evacuation order;

b. the primary and secondary contact person's phone, email, and fax number; and

c. whether the facility will be sufficiently manned such that post-event assessments will be performed by company personnel (as soon as safely practicable) and that any releases and/or hazardous situations will be reported in accordance with existing Louisiana Department of Environmental Quality (LDEQ) and State Police reporting requirements.

2. For those materials that are stored, it shall be necessary to only report those hazardous materials that were not reported in the annual Superfund Amendments and Reauthorization Act (SARA) inventory report and those that are in excess of what is typically stored at the facility.

3. Within a reasonable period of time, persons subject to the provisions of this Chapter shall perform a post-event assessment of those hazardous materials that were actually present in the affected area and to what degree, if any, those materials were compromised by said event and their current condition.

4. Both the DPS and Louisiana Department of Environmental Quality (LDEQ) shall have access to this information.

D. This Chapter does not extinguish any obligation or supersede any other federal or state law requiring reporting of information on hazardous materials.

AUTHORITY NOTE: Promulgated in accordance with R.S.32:1504.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 33:**.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

Person

Preparing

Statement: Tony WalkerDept.: Public Safety and CorrectionsPhone: 225-925-3757Office: SecretaryReturn P.O. Box 66614
Address: Baton Rouge, LA 70896-6614Rule Reporting Requirements for
Title: Category 3 or Higher Hurricane

Date Rule

Takes Effect: Upon Promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no cost or savings to the state to implement this rule. Some additional paperwork may occur during the period of time for which the additional reporting is required.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will have no impact on revenue collections of the state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

Some additional paperwork may occur during the period of time for which the additional reporting is required for groups engaged in the transportation of hazardous materials or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no impact on competition or employment as a result of the proposed rule.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Jill P. Boudreaux, Acting Undersecretary
Typed Name and Title of Agency Head or Designee

Date of Signature

Date of Signature

LFO 03/09/2001

FISCAL AND ECONOMIC IMPACT STATEMENT

FOR ADMINISTRATIVE RULES

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A.
- Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule provides a process for the reporting of information regarding hazardous materials that are in transit and/or temporarily stored at a facility and that could present a threat to human health and the environment if compromised during a Category 3 or higher hurricane.

- B.
- Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

Hurricanes Katrina and Rita illustrated the need to be able to accurately account for all hazardous material in this state especially in times of emergency. The state must be aware of the exact nature, quantities, and location of all hazardous materials in this state prior to any potential release under these circumstances.

- C.
- Compliance with Act 11 of the 1986 First Extraordinary Session
- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule will not result in any increase in the state’s expenditure of funds.

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

- (a) ☐ Yes. If yes, attach documentation.
- (b) ☐ No. If no, provide justification as to why this rule change should be published at this time.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I.

A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY 06-07	FY 07-08	FY08-09
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	-0-	-0-	-0-
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

There will be no cost or savings to the state to implement this rule. Some additional paperwork may occur during the period of time for which the additional reporting is required.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Sufficient funding exists to implement the proposed rule.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No significant cost or savings will occur for local governmental units as a result of the proposed rule. It is anticipated that local governments will not have the hazardous substances of concern stored that have not been otherwise reported.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This question is not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II.

EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A.

What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 06-07	FY 07-08	FY08-09
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B.

Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

The proposed rule will not result in either an increase or decrease in revenues.

III.

COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS

A.

What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

Groups engaged in the transportation of hazardous materials by railcars, vessels, or barges, or the temporary storage of hazardous materials in any storage vessel not permanently attached to the ground, that is within the confines of a parish affected, or projected to be affected, by a Category 3 or higher hurricane. The proposed rule will provide for a more efficient use of emergency personnel, and a slight increase in additional paperwork may occur during the period of time for which the additional reporting is required.

B.

Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There will be no impact on receipts and/or income as a result of the proposed rule.

IV.

EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be no impact on competition or employment as a result of the proposed rule.